3636

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of	Examiner: Stephen Vu
Richard C. Robertshaw	Group Art Unit: 3636
Serial No.09/643,551	File No.: 567P
Filed: August 22, 2000	
For: SPINAL GLIDE ERGONOMIC CHAIR SEAT AND PELVIC STABILIZER	Tiburon, California

Hon. Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Virginia 22313

Sir:

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER FOR PATENTS, PO BOX 1450, ALEXANDRIA, VIRGINIA 22313-1450.

ON 1-15-04

THOMAS M. FREIBURGER, Reg. No. 27,063

SIGNED

DATE 1-15-04

RESPONSE TO OFFICIAL ACTION

This is in response to the Official Action mailed September 23, 2003. A petition for a one month extension of time is enclosed herewith. Please amend the application as set forth below.

In the official action the Examiner rejected the claims over Berg '323 in view of Jensen Patent No. 5,769,492. The Jensen patent was relied on previously, in the Official Action dated May

27, 2003.

The Berg '323 patent was also relied upon by the Examiner in the Official Action of May 27, 2003. However, as pointed out in the applicant's previous response (7/2/03, received 7/7/03), the Berg '323 patent shows separately articulated seat sections at left and right of a chair construction, each section being bearing-mounted for rotation on two axes: a longitudinal axis and a transverse axis. The bearing mounts fix these seat sections against any movement other than the roll and pitch motion allowed by the axes of rotation. This absolutely prevents (a) gliding motion and (b) yaw rotation. Glide movement alone, or in combination with one of the rotational movements permitted by the current invention, is well defined by reference to the specification and has been discussed previously with the Examiner. See Figs. 3-14 of the drawings.

The current rejection of claims 5 and 9-11 relies on Berg '323 in combination with Jensen '492. The Examiner concedes that Berg '323 prevents yaw motion, but it is respectfully pointed out that the Berg '323 assembly also prevents glide motion, the provision of which is clearly recited in the claims. Glide motion is a sliding or translating motion, not achieved by pitch, roll or glide. This is discussed in the specification and is submitted to be well understood by reference to the specification and drawings. The mechanical restraints of Berg '323 absolutely

prevent any gliding movement.

The Jensen '492 patent also fails in many respects to provide the features of the invention, and its different approach does not lend itself to any combination with Berg, nor is there any suggestion or motivation to make any such combination.

First, Jensen does not show a split seat chair with discrete left and right sections. The claims recite structure which provides for independent motions in pitch, roll, yaw and glide of the two separate seat sections. Claim 5 requires "resilient means connected to and positioned below each seat platform. . . for allowing movement of the pelvis. . . allowing for movement in pitch, roll, and yaw as well as forward and rearward glide of the ilia and sacral bones relative to one another." Claim 9 further recites lateral glide of the ilia and sacral bones relative to one another.

In the Jensen patent, which does not show a split seat but rather a single seat that rocks or tips back and forth, there is no such independent movement. For example, whenever the user tips the seat down at back left, the right front comes up, and vice versa.

Also, the roll motion provided by Jensen is very different with a unitary seat, as compared to the applicant's two separate and discrete seat sections. There are two sides to the pelvis, and there must be two separate sides to the seat to achieve the

therapeutic effects of the present invention.

The fact is, Jensen is only working the back of the sitting user, and talks about spinal motion. In the present invention the claimed chair construction works the pelvis with the defined types of motions. The two sides of the human pelvis are separate and independent, connected by the sacroiliac. On the front is a gelatinous fluid, synovial fluid, that allows the pelvis to have movement forward and back, and rotation when one leg goes forward. As one leg is put forward, the iliac bone has to flare out, so that the pelvis can rock. While the right leg is forward, the left leg is back. This is a complex motion in the hips each ilium necessarily having independent motions. The claimed invention provides a far better imitation of these walking motions of the ilia, than anything in the prior art. In particular, with the present invention the two ilia rotate independently, on the two independent seat sections, not as one unit. Jensen states, at the bottom of column 3 and the top of column 4, that the sacrum 105 is considered to be immoveable; thus Jensen does not even consider the pelvis or sacrum as having freedom of movement. This seems an opposite philosophy to that of the present invention.

The split seat, therefore, is crucial and fundamental to the invention. Any reference that teaches a unitary seat, particularly a unitary seat tethered by a tiltable post secured

to the seat as in Jensen, teaches away from the invention and cannot be said to provide motivation for a combination that would result in the present invention.

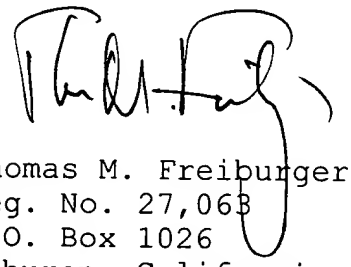
Even if one attempted to combine to Jensen and Berg '323, it would not result in the present invention. Both Berg and Jensen teach restraint of the seat sections or single seat section via mechanical structures. In the case of Berg '323, it is the mechanical restraint along the rotational axes shown, those axes being fixed down to the base and only allowing a strict rotation without glide and without yaw, as pointed out in the previous response. In the case of Jensen, the mechanical restraint is the rod fixed to the seat platform and extending down to a base as shown in Fig. 2. Together, these two references absolutely teach the absence of glide and prevent any possibility of glide motion, so that their combination clearly cannot be said to suggest such glide motion. In addition, the Jensen patent states that it is concerned only with the lumbar spine, not with movement of the pelvis, as pointed out above.

It is therefore believed manifest that claims 5 and 9-11 define a distinctly different ergonomic seat construction than what is shown in Berg '323 or Jensen '492 or anything that could possibly be gleaned as a suggestion from either or both of those references.

Favorable action and allowance of the claims is thus

solicited. However, if the Examiner believes any issue remains, a telephone call to the undersigned would be appreciated.

Respectfully submitted,



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Thomas M. Freiburger
Reg. No. 27,063
P.O. Box 1026
Tiburon, California 94920
415-435-0240